February 22, 2002

SUMMARY OF *EX PARTE* PRESENTATION

William F. Caton
Acting Secretary
Federal Communications Commission
445 – 12th Street, SW, Room TW A325
Washington, DC 20554

Re: *Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area*
CC Docket Nos. 96-149 and 00-175

Dear Mr. Caton:

On February 21, 2002, the undersigned and Claudia Bird, TDS Telecom; Bill Terry, TXU; and James Woody, Union Telephone Company, met with FCC Common Carrier Bureau staff members Claudia Pabo; Brad Koerner; Jack Yachbes; and Pam Megna, by teleconference, concerning the above-referenced proceeding. Attached hereto please find the questions presented to the LEC representatives by the FCC staff and a summary of the responses thereto. In accordance with FCC Rule 1.1206(b)(2), this Summary of *Ex Parte* Presentation is being filed electronically with your office for inclusion in the record of the above-referenced proceeding. Please contact me at (202) 326-7269 should you have questions.

Sincerely,

/s/Lawrence E. Sarjeant
Lawrence E. Sarjeant
Vice President – Law
and General Counsel

attachment

cc: Claudia Pabo
Brad Koerner
Jack Yachbes
Pam Megna

1. What interexchange facilities do the independent ILEC interexchange corporate subsidiaries currently own? Absent the requirement for a separate corporate subsidiary, what equipment would independent ILECs own jointly with their IX operations? How would this equipment be used by their IX operations? How would it be made available to IX competitors? What alternatives, if any, would competing IX providers have to the use of these facilities?

Response: Some transport and switching facilities. It is unlikely that facility deployment decisions would be made solely on the basis of the separate corporate subsidiary requirement, but it is an influencing factor in decisions concerning the type or functionality of facilities acquired. It is not apparent there is an obligation to make interexchange facilities available to interexchange competitors. Competing interexchange providers can acquire, or acquire access to, alternative facilities from the same sources as the ILEC. ILECs do not have a dominant position with respect to the provision of interexchange services or access to interexchange facilities and there would be no need for ILECs to make their interexchange facilities available to competitors.

2. What benefits would flow from joint ownership of this equipment?

Response: Lower costs and greater efficiency in the provision of interexchange services.

3. How would the cost of such jointly owned equipment be allocated? How would these costs be recovered? (Part 64 Cost Allocation, Jurisdictional Separations, and Part 69 Access Charge rules.) How would cost-recovery differ for average schedule companies, cost companies (both NECA pool and non-pool members), and price cap companies?

Response: Not certain, but it does not appear that there is anything unique about allocating costs between local exchange and interexchange, or regulated and non-regulated, services/facilities that could not be accommodated by existing rules.

4. Describe any inefficiencies or barriers to innovation due to use of a separate corporate subsidiary. Describe the extra costs due to use of a separate corporate subsidiary.

Response: There are inefficiencies associated with not being able to use equipment or personnel in common for local exchange and interexchange services where it is technically feasible or practical to do so. The inefficiencies would exist for all LECs, but are particularly acute for small LECs. Inefficiencies result in increased costs through the loss of the opportunity to achieve cost savings that come from increased utilization and revenue generation where facilities and personnel are put to multiple uses.

5. Are there any reasons to treat the larger independent ILECs differently than the smaller independent ILECs?

6. How many independent ILECS provide interexchange service? How many do so exclusively on a resale basis? How many use some of their own interexchange facilities?

Response: No updated data have been obtained beyond that already filed by USTA in this proceeding.

7. To what extent has local exchange competition developed in areas served by independent ILECs? What CLECs serve these areas? What types of customers do they serve? How many lines do they provide? Do CLECs provide service through resale, UNEs or over their own facilities?

Response: CLEC competition is being provided both by CLECs unaffiliated with ILECs and from ILEC-affiliated CLECs that are providing competitive local services in areas that adjoin their local ILEC serving area. The scope of the competition from CLECs varies by location. It is substantial in some areas and nonexistent in others. However, wireless service providers are providing competition to ILECs for voice services in virtually all parts of the country. Toll and access minutes are being significantly affect by wireless calling plans.

8. If the Commission were to eliminate the separate corporate subsidiary requirement and rely more heavily on complaints and enforcement actions, are there clear standards concerning what constitutes discrimination? If not, could the Commission develop standards that would provide adequate guidance? What should these standards be? Would the Commission have adequate access to information necessary for the resolution of such complaints?

Response: Section 202 of the Communications Act already prohibits unreasonable discrimination in the provision of telecommunications services by any common carrier. Standards already exist as a result of the FCC's past precedents in dealing with claims of discrimination by common carriers. There is no need for special nondiscrimination rules or standard to be applied in this context. The FCC has the tools that it needs to address demonstrated cases of unreasonable discrimination.